

**IN THE
SUPREME COURT OF INDIANA**

CASE NUMBER:

ORDER AMENDING RULES OF TRIAL PROCEDURE

Under the authority vested in this Court to provide by rule for the procedure employed in all courts of this state and this Court's inherent authority to supervise the administration of all courts of this state, ***Rule 3.1, 4.4, 16, 26, 65*** of the ***Indiana Rules of Trial Procedure*** are amended to read as follow (deletions shown by ~~striking~~ and new text shown by underlining):

RULES OF TRIAL PROCEDURE

Rule 3.1. Appearance.

(A) Initiating party. At the time an action is commenced, the party initiating the proceeding shall file with the clerk of the court an appearance form setting forth the following information:

- (1) Name, address and telephone number of the initiating party or parties to the proceeding;
- (2) Name, address, attorney number, telephone number, FAX number, and computer address of any attorney representing the initiating party, as applicable;
- (3) The case type of the proceeding [Administrative Rule 8(B)(3)];
- (4) A statement that the party will or will not accept service by FAX;
- (5) In domestic relations, Uniform Reciprocal Enforcement of Support (URESA), paternity, delinquency, Child in Need of Services (CHINS), guardianship, and any other proceedings in which support may be an issue, the Social Security Identification Number of all family members;
- (6) The caption and case number of all related cases;

(7) Such additional matters specified by state or local rule required to maintain the information management system employed by the court; and

~~(8) Except in protective order proceedings, the name and telephone number of a pro-se initiating party. In a proceeding involving a protection from abuse order, a workplace violence restraining order, or a no-contact order, the initiating party shall provide to the clerk a public mailing address for purposes of legal service. The initiating party may use the Attorney General Address Confidentiality program established by statute.~~

(B) Responding parties. At the time the responding party or parties first appears in a case, such party or parties shall file an appearance form setting forth the following information:

(1) Name, ~~address and telephone~~ or number of the party or parties responding;

(2) Name, address, attorney number, telephone number, FAX number, and computer address of the attorney representing the responding party or parties, as applicable;

(3) The case number previously assigned to the proceeding;

(4) A statement that the responding party or parties will or will not accept service by FAX; and

(5) Such additional matters specified by state or local rule required to maintain the information management system employed by the court; ~~and~~.

~~(6) Except in Protective Order proceedings, the name and address of a pro-se responding party.~~

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(D) ~~Public notice~~ Confidentiality of identifying information. In a proceeding involving a protection from abuse order, a workplace violence restraining order, a no-contact order, or a proceeding which is confidential pursuant to Administrative Rule 9, such identifying information shall be confidential and/or filed under seal as provided by statute and/or administrative rules. Information relating to the parties set forth in this rule may be filed under seal of the court as warranted by the circumstances presented in a particular case.

(E) Completion and correction of information. In the event matters must be filed before the information required by this rule is available, the appearance form shall be submitted with available information and supplemented when the absent information is acquired. Parties shall promptly advise the clerk of the court of any change in the information previously supplied to the court.

In a motion for leave to withdraw appearance, an attorney shall certify the last known address and telephone number of the party, subject to the confidentiality provisions of Sections (A)(8) and (D) above, before the court may grant such a motion.

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Rule 4.4. Service upon persons in actions for acts done in this state or having an effect in this state.

(A) Acts Serving as a Basis for Jurisdiction. Any person or organization that is a nonresident of this state, a resident of this state who has left the state, or a person whose residence is unknown, submits to the jurisdiction of the courts of this state as to any action arising from the following acts committed by him or her or his or her agent:

- (1) doing any business in this state;
- (2) causing personal injury or property damage by an act or omission done within this state;
- (3) causing personal injury or property damage in this state by an occurrence, act or omission done outside this state if he regularly does or solicits business or engages in any other persistent course of conduct, or derives substantial revenue or benefit from goods, materials, or services used, consumed, or rendered in this state;
- (4) having supplied or contracted to supply services rendered or to be rendered or goods or materials furnished or to be furnished in this state;
- (5) owning, using, or possessing any real property or an interest in real property within this state;
- (6) contracting to insure or act as surety for or on behalf of any person, property or risk located within this state at the time the contract was made;
- (7) living in the marital relationship within the state notwithstanding subsequent departure from the state, as to all obligations for alimony, custody, child support, or property settlement, if the other party to the marital relationship continues to reside in the state; or
- (8) abusing, harassing, or disturbing the peace of, or violating a protective or restraining order for the protection of, any person within the state by an act or omission done in this state, or outside this state if the act or omission is part of a continuing course of conduct having an effect in this state.

In addition, a court of this state may exercise jurisdiction on any basis not inconsistent with the Constitutions of this state or the United States.

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Rule 16. Pre-trial procedure: Formulating issues.

(A) When required – Purpose. In any action except criminal cases, the court may in its discretion and shall upon the motion of any party, direct the attorneys for the parties to appear before it for a conference to consider:

- (1) the simplification of the issues;
- (2) the necessity or desirability of amendments to the pleadings;
- (3) the possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof;
- (4) a limitation of the number of expert witnesses;
- 5) an exchange of names of witnesses to be called during the trial and the general nature of their expected testimony;
- (6) the desirability of using one or more types of alternative dispute resolution under the rules therefor; ~~and~~
- (7) the desirability of setting deadlines for dispositive motions in light of the date set for trial; and
- ~~(7)~~ (8) such other matters as may aid in the disposition of the action.

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Rule 26. General provisions governing discovery.

(A) Discovery methods. Parties may obtain discovery by one or more of the following methods:

- (1) depositions upon oral examination or written questions;
- (2) written interrogatories;
- (3) production of documents or things or permission to enter upon land or other property, for inspection and other purposes;
- (4) physical and mental examination;
- (5) requests for admission.

Unless the court orders otherwise under subdivision (C) of this rule, the frequency of use of these methods is not limited.

Electronic Format. In addition to serving a hard copy, a party propounding or responding to interrogatories, requests for production or requests for admission shall comply with (a) or (b) of this subsection.

(a) The party shall serve the discovery request or response in an electronic format (either on a disk or as an electronic document attachment) in any commercially available word processing software system. If transmitted on disk, each disk shall be labeled, identifying the caption of the case, the document, and the word processing version in which it is being submitted. If more than one disk is used for the same document, each disk shall be labeled and also shall be sequentially numbered. If transmitted by electronic mail, the document must be accompanied by electronic memorandum providing the foregoing identifying information.

or

(b) The party shall serve the opposing party with a verified statement that the attorney or party appearing pro se lacks the equipment and is unable to transmit the discovery as required by this rule.

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Rule 65. Injunctions

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(E) Temporary Restraining Orders—Domestic Relations Cases. Parties wishing protection from domestic or family violence in Domestic Relations cases shall petition the court pursuant to IC 34-26-5. Subject to the provisions set forth in this paragraph, in an action for dissolution of marriage, separation, or child support, the court may issue a Temporary Restraining Order, without hearing or security, if either party files a verified petition alleging an injury would result to the moving party if no immediate order were issued.

(1) *Joint Order.* If the court finds that an order shall be entered under this paragraph, the court may enjoin both parties from:

- (a) transferring, encumbering, concealing, selling or otherwise disposing of any joint property of the parties or asset of the marriage except in the usual course of business or for the necessities of life, without the written consent of the parties or the permission of the court; and/or
- (b) removing any child of the parties then residing in the State of Indiana from the State with the intent to deprive the court of jurisdiction over

such child without the prior written consent of all parties or the permission of the court.

(2) *Separate Order Required.* In the event a party seeks to enjoin by a temporary restraining order the non-moving party from abusing, harassing, ~~or~~ disturbing the peace of ~~or committing a battery on~~ the petitioning party or any child or step-child of the parties, or exclude the non-moving party from the family dwelling, the dwelling of the non-moving party, or any other place, and the court determines that an order shall be issued, such order shall be addressed to one person. A joint or mutual restraining ~~or protective~~ order shall not be issued. If both parties allege injury, they shall do so by separate petitions. The trial court shall review each petition separately and grant or deny each petition on its individual merits. In the event the trial court finds cause to grant both petitions, it shall do so by separate orders.

(3) *Effect of Order.* An order entered under this paragraph is automatically effective upon service. Such orders are enforceable by all remedies provided by law including contempt. Once issued, such orders remain in effect until the entry of a decree or final order or until modified or dissolved by the court.

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These amendments shall take effect January 1, 2003, except that amendments to T.R. 65 shall take effect immediately.

The Clerk of this Court is directed to forward a copy of this order to the clerk of each circuit court in the state of Indiana; Attorney General of Indiana; Legislative Services Agency and its Office of Code Revision; Administrator, Indiana Supreme Court; Administrator, Indiana Court of Appeals; Administrator, Indiana Tax Court; Public Defender of Indiana; Indiana Supreme Court Disciplinary Commission; Indiana Supreme Court Commission for Continuing Legal Education; Indiana Board of Law Examiners; Indiana Judicial Center; Division of State Court Administration; Indiana Judges and Lawyers Assistance Program; the libraries of all law schools in this state; the Michie Company; and the West Group.

The West Group is directed to publish this Order in the advance sheets of this Court.

The Clerks of the Circuit Courts are directed to bring this Order to the attention of all judges within their respective counties and to post this Order for examination by the Bar and general public

DONE at Indianapolis, Indiana, this _____ day of July, 2002.

Randall T. Shepard
Chief Justice of Indiana

All Justices concur.